

Office of the Secretary, Homeland Security

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§ 115.5 General definitions.

For purposes of this part, the term—
Agency means the unit or component of DHS responsible for operating or su-

pervising any facility, or part of a facility, that confines detainees.

Agency head means the principal official of an agency.

Contractor means a person who or entity that provides services on a recurring basis pursuant to a contractual agreement with the agency or facility.

Detainee means any person detained in an immigration detention facility or holding facility.

Employee means a person who works directly for the agency.

Exigent circumstances means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility or a threat to the safety or security of any person.

Facility means a place, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that was built or retrofitted for the purpose of detaining individuals and is routinely used by the agency to detain individuals in its custody. References to requirements placed on facilities extend to the entity responsible for the direct operation of the facility.

Facility head means the principal official responsible for a facility.

Family unit means a group of detainees that includes one or more non-United States citizen juvenile(s) accompanied by his/her/their parent(s) or legal guardian(s), whom the agency will evaluate for safety purposes to protect juveniles from sexual abuse and violence.

Gender nonconforming means having an appearance or manner that does not conform to traditional societal gender expectations.

Holding facility means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

(1) Under the control of the agency; and

(2) Primarily used for the short-term confinement of individuals who have recently been detained, or are being transferred to or from a court, jail, prison, other agency, or other unit of the facility or agency.

Immigration detention facility means a confinement facility operated by or

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pursuant to contract with U.S. Immigration and Customs Enforcement (ICE) that routinely holds persons for over 24 hours pending resolution or completion of immigration removal operations or processes, including facilities that are operated by ICE, facilities that provide detention services under a contract awarded by ICE, and facilities used by ICE pursuant to an Intergovernmental Service Agreement.

Intersex means having sexual or reproductive anatomy or chromosomal pattern that does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Juvenile means any person under the age of 18.

Law enforcement staff means officers or agents of the agency or facility that are responsible for the supervision and control of detainees in a holding facility.

Medical practitioner means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search means a sliding or patting of the hands over the clothed body of a detainee by staff to determine whether the individual possesses contraband.

Security staff means employees primarily responsible for the supervision and control of detainees in housing units, recreational areas, dining areas, and other program areas of an immigration detention facility.

Staff means employees or contractors of the agency or facility, including any

entity that operates within the facility.

Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breasts, buttocks, or genitalia.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

Unfounded allegation means an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency or facility.

§ 115.6 Definitions related to sexual abuse and assault.

For purposes of this part, the term—
Sexual abuse includes—

- (1) Sexual abuse and assault of a detainee by another detainee; and
- (2) Sexual abuse and assault of a detainee by a staff member, contractor, or volunteer.

Sexual abuse of a detainee by another detainee includes any of the following acts by one or more detainees, prisoners, inmates, or residents of the facility in which the detainee is housed who, by force, coercion, or intimidation, or if the victim did not consent or was unable to consent or refuse, engages in or attempts to engage in:

- (1) Contact between the penis and the vulva or anus and, for purposes of this paragraph (1), contact involving the penis upon penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;
- (4) Touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing,